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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,100	05/16/2007	Brian Clayton	148/424US	9527
23638 7590 08/31/2009 ADAMS INTELLECTUAL PROPERTY LAW, P.A. Suite 2350 Charlotte Plaza 201 South College Street CHARLOTTE, NC 28244				
EXAMINER				
NGUYEN, PHUNG				
ART UNIT		PAPER NUMBER		
2612				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/560,100

Applicant(s)

CLAYTON, BRIAN

Examiner

PHUNG NGUYEN

Art Unit

2612

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-24,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-11,19,21-24,26 is/are rejected.
- 7) ☒ Claim(s) 12-18,20 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION.

Specification

1. This application is informal in the arrangement of the specification.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) Reference to a "Microfiche Appendix" (see 37 CFR 1.96).
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The headers are missing: Background of the invention, Summary of the invention, Brief description of the drawings, and Detailed description of the embodiments.

Claim Objections

2. Claims 2, and 5-24 are objected to because of the following informalities:

Regarding claims 2, and 5-24, line 1, change "A mechanism" to --The mechanism--

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 26 and 27 provides for the use of operating an activation mechanism of a personal locator beacon, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 26 and 27 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

5. Claims 6-9, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 6-8, line 2, the phrase “may be” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Regarding claim 9, line 3, the phrase “may be” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Regarding claim 11, line 3, the phrase “may be” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 6, 9, 24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Brodie et al. (US 6,208,269).

Regarding claim 1: Brodie et al. teach an activation mechanism for a personal locator beacon, the mechanism comprising a removable actuator pin; a pin housing fixably attached to the personal locator beacon for removably associating the pin with the locator beacon and a pin withdrawal mechanism for automatically disassociating the pin from the locator beacon in the event of an emergency, withdrawal of the pin causing activation of the personal locator beacon (col. 1, lines 20-32).

Regarding claim 6: Brodie et al. teach the housing may be orientated on the personal locator beacon in one of a plurality of positions according to a desired pin entry/exit angle (col. 1, lines 29-32).

Regarding claim 9: Brodie et al. disclose the variable orientation is provided to account for the variety of possible positions on a flight suit on which the beacon may be worn (col. 1, lines 35-36).

Regarding claim 24: Brodie et al. teach the pin is arranged to be connected by a leash to a fixed point and, movement of the personal locator beacon away from the fixed point, beyond an extent of the leash causes the pin to be pulled from the housing (col. 1, lines 27-32).

Regarding claim 26: All the claimed subject matter is already discussed in respect to claim 1 above.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 5, 7, 8, 10, 11, 19, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brodie et al. (US 6,208,269).

Regarding claims 2, and 5: Brodie et al. do not teach the removable pin and the pin housing are arranged to cooperate with one another by means of mutually engaging members, the mutually engaging members forming a detent mechanism, the detent mechanism comprising

a protrusion cooperating with an indentation. Since Brodie et al. inherently teach the removable pin and the pin housing are arranged to cooperate with one another by means of mutually engaging members (col. 1, lines 27-32), it would be obvious to one of ordinary skill in the art to modify the device of Brodie et al. in order to have the detent mechanism comprising a protrusion cooperating with an indentation as needed.

Regarding claims 7, and 8: Brodie et al. do not specially teach the pin may be withdrawn from the housing in a sideways direction as claimed. Since Brodie et al. disclose the housing is orientated with respect to the beacon such that the pin may be withdrawn from the housing so that the personal locator beacon is automatically activated (col. 1, lines 27-32), it would have been an obvious design choice to one of ordinary skill in the art to have the pin may be withdrawn from the housing in a sideways direction or at an angle approximately orthogonal to the sideways direction because they are functional equivalent.

Regarding claims 10, 11, and 19: Brodie et al. do not teach the housing comprises a pin insertion region and a pin reception region into which the pin may be slidably introduced and positively locked into position by means of the detent mechanism, and the indentation and protrusion are arranged to resist removal of the pin from the housing. However, Brodie et al. inherently teach the pin insertion region and the pin reception region (col. 1, lines 27-32). Therefore, it would have been obvious to the skilled artisan to recognize that the pin of the personal locator beacon of Brodie et al. may be positively locked into position by means of the detent mechanism in order to prevent inadvertent removal of the pin.

Regarding claims 21-23: Brodie et al. do not teach the pin withdrawal mechanism comprises a key ring arranged to extend through the bore formed in the pin and to be joined to an

extend surface. Since Brodie et al. teach the pin withdrawal mechanism (col. 1, lines 29-31), it would have been obvious to one of ordinary skill in the art to use the key ring arranged to extend through the bore formed in the pin and to be joined to an extend surface in order to activate the personal locator beacon.

Allowable Subject Matter

10. Claims 12-18, 20, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 12, patentability resides in “a flexible finger forming part of the housing and including a protrusion for engaging with the corresponding indentation in the pin”

Regarding claim 15, patentability resides in “means are provided on the housing or the pin or a body portion of the beacon itself to prevent mis-insertion of the pin into the housing”

Regarding claim 20, patentability resides in “the geometric configuration of the indentation and protrusion is selected according to a desired resistance to withdrawal of the pin”

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 571-272-2968. The examiner can normally be reached on 8:00am-4:30pm Mon thru. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 571-272-2964. The fax numbers for the organization where this application or proceeding is assigned is 571-273-8300.

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/Phung T Nguyen/

Primary Examiner, Art Unit 2612

Date: August 27, 2009